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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,082	08/03/2001	Stephen Gold	30990147-2	8726

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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ISMAIL, SHAWKI SAIF

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/922,082

Applicant(s)

GOLD, STEPHEN

Examiner

Shawki S. Ismail

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14, 16 and 24-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 16 and 24-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **RESPONSE TO AMENDMENT**

1. This action is responsive to the amendment received on December 12, 2005. Claims 1-13, 15 and 17-23 have been cancelled. Claims 14, 24-31 have been amended. Claims 33-36 have been newly added. Claims 14, 16, and 24-36 are pending.

### **Claim Rejections - 35 USC §102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 14, 24, 26, 29 and 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by **Sayle** U.S. Patent No. **6,356,863**.

4. As to claim 14, Sayle teaches a gateway appliance for sending data to and receiving data from a remote data storage location accessible over a communications link, said gateway appliance comprising:

a data processor (see Fig. 1, col. 7, lines 58-67; virtual file server processes file system request from the network);

a first communications port for communicating with a plurality of computers in a computer network (col. 9, lines 37-55, virtual file server receives file system requests from client device);

a second communications port for communicating with a remote data storage facility (col. 9, lines 37-55, virtual file server access remote storage and retrieves desired file for client device);

a non-volatile data storage device for storing locally, data to be communicated via said second communications port (see Fig. 1, col.8, lines 18-31, a database is maintained on the virtual file server);

wherein said gateway appliance writes user data in a file system dependent format to said non-volatile data storage device (col. 10, line 58 – col. 11, line 7);

creates emulation data which emulates a file system corresponding to a file system of a network of computer entities (col. 7, line 57 – col. 8, line 3, virtual file server emulates a file system providing “virtual” files and directories to the machines on the local network);

uses said user data and said emulation data to create a transmission data file for transmission, the transmission file being in a file system independent format (col. 10, line 58 – col. 11, line 7); and

transmits said transmission data file over the communications link for remote data storage at the remote data storage location (col. 10, line 58 – col. 11, line 7).

5. As to claim 24 Sayle teaches the device as claimed in claim 14, wherein said emulation data comprises data describing security attributes of said user data (col. 11, lines 8-20).

6. As to claim 26, Sayle teaches the device as claimed in claim 14, wherein transmitting occurs at predetermined intervals, and writing said user data comprises

caching said user data in said local data storage device between file transmission events (col. 8, lines 18-31).

7. As to claim 27, Sayle teaches the gateway appliance as claimed in claim 14, wherein said user data is cached in a file at said local data storage area in a file system independent format (col. 10, line 58 – col. 11, line 7).

8. Claims 33-36 do not teach or define any new limitation over the above mentioned claims, therefore they are rejected for similar reasons.

### **Claim Rejections - 35 USC § 103**

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 16, 25, 27, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sayle** U.S Patent No. **6,356,863** and in view of **Miller et al.**, (Miller) U.S. Patent No. **6,535,911**.

11. As to claim 16, Sayle teaches the claimed invention as described above. Sayle does not explicitly teach wherein the device is configured to make a scheduled transmission burst of changes to files since at least transmission burst, wherein only blocks inside files which have changed since the last transmission are transmitted in said scheduled transmission.

Miller teaches a method and apparatus for viewing information set originated from a distribution media and updated using a remote server. Miller teaches receiving updates of one or more files supplementing the information contained on the original distribution media (col. 2, lines 4-23).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Miller into the invention of Sayle in order to provide updates of so that information is not outdated and clients are able to view up-to-date information (col. 1, lines 16-25).

12. As to claim 25, Sayle teaches the claimed invention as described above. Sayle does not explicitly teach wherein transmitting said transmission file comprises transmitting a plurality of modified portions of user files, which have changed since a last transmission event.

Miller teaches a method and apparatus for viewing information set originated from a distribution media and updated using a remote server. Miller teaches receiving updates of one or more files supplementing the information contained on the original distribution media (col. 2, lines 4-23).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Miller into the invention of Sayle in order to provide updates of so that information is not outdated and clients are able to view up-to-date information (col. 1, lines 16-25).

13. As to claim 27, Sayle teaches the gateway appliance as claimed in claim 14, wherein said transmission file is compressed and encrypted prior to transmitting said transmission file over said communication link (col. 9, line 55 – col. 10, line 10).

Sayle does not teach periodically, a portion of said file which is changed compared to a previously transmitted version of said file is transmitted over said communication link for remote data storage.

Miller teaches a method and apparatus for viewing information set originated from a distribution media and updated using a remote server. Miller teaches receiving updates of one or more files supplementing the information contained on the original distribution media (col. 2, lines 4-23).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Miller into the invention of Sayle in order to provide updates of so that information is not outdated and clients are able to view up-to-date information (col. 1, lines 16-25).

14. Claims 28, 30 and 31 do not teach or define any new limitation over the above mentioned claims, therefore they are rejected for similar reasons.

### **Response to Arguments**

15. Applicant's arguments, filed December 12, 2005, have been fully considered but they are not deemed persuasive. Applicant argues in substance that:

(A) Argument: Sayle does not disclose performing a transformation of user data to a file system independent format.

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Response: These limitations are not found in the claims. Claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

(B) Argument: Sayle does not disclose or suggest a gateway appliance that uses said user data and said emulation data to create a transmission data file for transmission, the transmission file being in a file system independent format; and transmits said transmission file over the communications link for remote data storage at the remote data storage location.

Response: The user data is the protocol type in which the original request was received indicating the desired format for the specific client. The request is saved in a native format, which is a dependent format of the file system. Furthermore, the request is transmitted for various purposes including read, write, store, deferred deletion, compression, etc... (col. 10 line 58 – col. 11 line 7). There is no limitation in the claim that specifies what the user data encompasses and therefore Sayle's protocol type meets the scope of the claimed limitation "uses said user data and said emulation data to create a transmission data file for transmission, the transmission file being in a file system independent format; and transmits said transmission file over the communications link for remote data storage at the remote data storage location."



16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Contact Information**

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail  
Patent Examiner  
March 2, 2006



SALEH NAJJAR  
SUPERVISORY PATENT EXAMINER